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ABSTRACT

This booklet for Minnesota parents of children with disabilities provides an overview of special education services. Information is provided on: (1) the purpose of special education; (2) disabilities that are covered under the Individuals with Disabilities Education Act; (3) eligibility age; (4) types of special education and related services; (5) referral; (6) transition evaluation; (7) functional behavioral assessment; (8) independent evaluations; (9) the role parents play in the evaluation process; (10) membership on the Individualized Education Program (IEP) team; (11) factors that must be considered in developing an IEP; (12) requirements of the IEP; (13) placement options for special education services; (14) how parents can contribute to IEP planning meetings; (15) IEP evaluation; (16) procedural safeguards; (17) conciliation conferences; (18) mediation; (19) due process hearing; and (20) state complaint procedures. Answers to commonly asked questions about student and parent rights, child advocacy, and parent-teacher communication are provided. A list of disability-related organizations is provided, along with key Web sites. (CR)

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A Handbook on
Rights and Responsibilities
in Special Education
for Parents of
Children with Disabilities

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PACER CENTER

SIXTH EDITION

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PARENTS CAN BE THE KEY

A Handbook on
Rights and Responsibilities
in Special Education
for Parents of
Children with Disabilities

Sixth Edition

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This sixth edition has been revised by Debra Carlson, PACER Advocate. This edition reflects the 1997 Amendments to the Individuals with Disabilities Education Act (IDEA).

PACER Center, Inc.
8161 Normandale Boulevard
Minneapolis, MN 55437-1044
Voice (952) 838-9000
TTY (952) 838-0190
Toll-free in Greater MN
(800) 53-PACER
Fax (952) 838-0199
pacer@pacer.org
www.pacer.org

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Parents can be the key

As a parent,* you know your child in a way no one else can. You are an expert on your child and a vital member of the team that plans your child's education. You, as a parent, can be the key to an appropriate education for your child.

You have important information to share about your child's educational planning, and you can take action to make changes when they are needed. To be an effective advocate, you must know your rights and those of your child. Exercising these rights and fulfilling your responsibilities are important steps in supporting your child on his or her educational journey.

This book offers an overview of special education in Minnesota. For further information or individual assistance, contact PACER Center.

*The term *parent* refers to parents, surrogate parents, and legal guardians. When the parents are separated or divorced, it means the parent who has the legal right, by court decree or agreement, to determine the student's education, even though the student may be living with the other parent.

Special education services

What is the purpose of special education?

In 1975, the U.S. Congress passed the first law guaranteeing the rights of children with disabilities to an appropriate education program. This law, now called the Individuals with Disabilities Education Act (IDEA), provides children with disabilities opportunities to achieve at high levels and to prepare for postsecondary education, quality employment, and community living. The most recent amendments to the law in 1997 were written to improve services to children and strengthen the involvement of their parents in education planning.

Children who receive special education and related services are entitled to a free, appropriate public education (FAPE). This includes opportunities to participate in the school's general curriculum and to make progress toward meeting annual goals. Children who receive special education must also have opportunities to take part in other typical school activities that are appropriate to their individual needs.

What disabilities are covered under IDEA?

If a disability interferes with learning, a child may be eligible for special education services.

The disabilities or special needs that are described in special education law include:

- mental retardation
- hearing impairments, including deafness
- speech or language impairments
- visual impairments, including blindness
- emotional disturbances
- orthopedic impairments
- autism
- traumatic brain injury
- other health impairments
- specific learning disabilities
- deaf-blindness
- multiple disabilities

Children may have disabilities that are not visible or obvious, such as attention deficit hyperactivity disorder (ADHD) or depression. If a disability interferes with learning, a child may be eligible for special education services.

The term *developmental delay* is used for children ages birth to three. In Minnesota, local school districts may also use this disability category for children ages three to seven. If a local district or co-operative chooses to do so, it must use both the definition and the age range defined by the state. In districts that choose not to use the expanded definition of developmental delay, children over three have to meet the criteria for one of the disability areas in order to receive services.

At what age can a child receive special education services?

In Minnesota, schools are required to serve eligible children from birth until age 22 or the completion of high school, whichever comes first. (This will change on July 1, 2002, to age 21. Students then will be eligible for special education until the July following their 21st birthday.)

What are special education and related services?

Under IDEA, *special education* means "specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability." It can be provided in the classroom, home, hospital or institution, or other setting and includes instruction in physical education. These services are provided by licensed personnel and include special teaching materials and techniques. Special education services may also require special equipment or facilities.

Related services are "transportation and such developmental, corrective, or other support services . . . as may be required to assist a child with a disability to benefit from special education." Related services include "speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services . . . for diagnostic and evaluation purposes only."

In Minnesota, special education and related services may include direct or indirect services. *Direct services* are those delivered directly to the student by a special education teacher or a related-services professional. *Indirect services* are provided by special education staff to regular education teachers, parents, or others who have direct contact with the student. Indirect services include consultations; ongoing progress reviews; accommodations in the environment, curriculum, materials, or equipment; and monitoring, observing, and reviewing the student's progress.

Special education means "specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability."

How do I start the process?

Under a process known as *child find*, school districts have a legal obligation to identify, locate, and evaluate all children with disabilities who live in their boundaries and need special education and related services. This includes children who attend private school.

When a child is suspected of having a disability and needing special education and related services because of the disability, a referral for evaluation should be made. A *referral* is simply a request to have a child evaluated. A referral can come from school personnel,

a community agency professional, or the child's parents. Parents should make their request for evaluation in writing to their building principal. They should also send a copy to the district special education director and keep a copy for their own records.

Public schools must conduct this evaluation at no cost to parents.

Evaluation

Evaluation involves gathering information to determine whether a child has a disability and using the results to decide on any special education and related services the child needs. Because your child's education program is based on the evaluation results, it is important to be sure the evaluation is accurate and complete. Evaluation should identify the things your child does well in addition to those that are difficult.

People often think of tests when they hear the word *evaluation*. Special education evaluation involves more than tests, however. Professionals may observe your child, administer tests, and use other procedures such as interviews to assess your child's:

- speech and language abilities
- emotional and social functioning
- potential or aptitude (intelligence)
- academic achievement
- sensory functioning (e.g., vision and hearing)
- vocational interests and ability
- motor skills
- functional skills

An evaluation must assess your child in all areas of suspected disability. It will identify all needs, even those not commonly linked to your child's disability category. Tests are an important part of an evaluation, but your information is also important. The evaluation process will also include:

- observations by staff who have worked with your child
- medical history, when it affects school performance
- parent input on the child's school experiences, abilities and behaviors in other settings, and feelings about school

All tests must be given to your child individually in your child's primary language. They must not discriminate based on disability, race, or culture. Evaluation must be completed by qualified people, and a child may not be found to need special education and related services based on one test alone.

What is transition evaluation?

In Minnesota, if your child is in ninth grade or is 14 years old (or younger, if needed), the evaluation must include five areas of transition planning to determine what skills your child needs to work on to prepare for life beyond high school. The five transition program areas are:

1. employment
2. recreation and leisure
3. postsecondary education and training
4. home living/daily living skills
5. community participation

Transition evaluation tools may include surveys or interviews to help your son or daughter determine strengths, interests, and needs.

Transition evaluation results must be included as part of the evaluation summary report.

Transition evaluation tools may include surveys or interviews to help your son or daughter determine strengths, interests, and needs. Your child will be asked what he or she wants to do after high school. Career or vocational interest surveys, ability assessments, and information from work or volunteer experiences are part of the transition planning process.

For these students, complete evaluation results will be considered along with the information in the five transition planning areas. This information will be used to build an individualized education program (IEP) that also addresses transition needs to help prepare the child for life after high school.

If you have new information about your child or are concerned that needs are not being met, you may ask for a reevaluation.

Will there be any ongoing evaluation?

Yes. Children who are eligible for special education must be re-evaluated at least once every three years, more often if necessary. Reevaluation does not necessarily mean more testing. If you have new information about your child or are concerned that needs are not being met, you may ask for a reevaluation. Ongoing measures, such as tests teachers use with all children and your child's performance on statewide or districtwide assessments, help show whether your child is making appropriate progress.

What is functional behavioral assessment?

When a child has behavior problems that do not respond to standard interventions, a functional behavioral assessment can help the team understand *why* a child behaves in certain ways and plan more effective interventions.

A typical functional behavioral assessment includes the following:

- Clear description of the problem behavior.
- Observations of the child at different times and in different settings. These observations should record
  (1) what was happening in the environment before the behavior occurred,
  (2) what the actual behavior was, and
  (3) what the student achieved as a result of the behavior.
- Positive intervention strategies to teach behavior skills.

Once the functional behavior assessment has been completed, the results may be used to write a behavior intervention plan or to develop behavior goals for the individualized education program.

Parents or school staff may request a functional behavioral assessment as part of a child's evaluation or reevaluation. This kind of

assessment is required in Minnesota when a child who receives special education is removed from his or her educational program for more than 10 days.

What if I disagree with the school's evaluation results?

If you disagree with the school's evaluation results in writing, you may request an independent educational evaluation (IEE) of your child. An IEE is conducted by qualified people not employed by the school. When you request an IEE, the school has two choices:

1. provide an independent educational evaluation at no cost to you, or
2. initiate a due process hearing to show that its evaluation is appropriate.

How can parents play a role in the evaluation process?

- You may request an evaluation if you think your child needs special education.
- You must be invited to a meeting to decide whether your child needs an evaluation and if so to plan the evaluation.
- You are part of the evaluation team and should share what you know about your child.
- You must be notified in writing before the initial evaluation begins and when new tests are given during reevaluation.
- You have the right to refuse permission to have your child evaluated. You must agree or disagree in writing with the school's request to evaluate your child.
- You must be invited to the meeting to discuss the evaluation results and your child's eligibility and needs.
- You will be given a copy of the completed evaluation summary report, including how eligibility was determined. Ask to receive the report before the meeting.

Individualized Education Programs

The individualized education program (IEP) is a written plan that describes the educational program and services designed to meet your child's specific needs. It is developed by a team at a meeting, and its components are based on the Present Levels of Educational Performance (PLEP) and the evaluation, if one has been done.

Every child who receives special education and related services must have an IEP. The child's parents must be invited to help develop the IEP and must be given a copy when it is completed. In addition, the IEP must:

- be implemented as soon as possible after the IEP development meeting
- be accessible to the teachers and others who are responsible for putting the program into action
- remain in effect at the beginning of each school year
- be reviewed at least once a year to determine whether the annual goals are being achieved

Because every child is unique, each IEP should be, too. Your child's IEP must be based on his or her assessed needs and tailored to fit your child.

For a child ages birth to three, an individualized family service plan (IFSP) is used instead of an IEP. An IFSP requires that the team look at the concerns, priorities, and resources of the family as they relate to the child's development. Because the IFSP is an inter-agency document, representatives from education, health, human services, and other private agencies may be involved in developing the plan. The agency responsible for providing each service is determined, and that agency signs the document for that particular service and assumes financial responsibility.

Because every child is unique, each IEP should be, too.

Who is included in the IEP meeting?

Schools must ensure that the IEP team for each child with a disability includes:

- the child's parent(s)
- the child's regular education teacher (if the child participates in regular education)
- the child's special education teacher
- a representative of the school district who is qualified to provide or supervise special education services and is knowledgeable about the general curriculum and the resources available
- someone who can explain, based on the evaluation, what kind of instruction the child will need and how he or she should be taught (This may be one of the above people.)
- others, at the discretion of parents or school staff, who have knowledge or expertise regarding the child, including related services staff
- the child, when appropriate (Parents may include their child of any age.)

The school district must invite the child to the IEP meeting if transition needs or services will be discussed. If the child does not attend, the school must ensure that his or her preferences and interests are considered.

Schools must invite representatives of any other agencies likely to pay for or provide transition services. If an agency does not send a representative, the district must take other steps to obtain its participation.

Anyone else important to your child's education may attend. By law, parents or school personnel may invite "other individuals who have expertise about the child." The inviting party determines if the invited person has expertise. You may invite anyone you choose.

What factors must be considered in developing an IEP?

When developing an IEP, the team must consider:

- the child's strengths and the parents' concerns for their child's education
- the results of the initial or most recent evaluation
- the results of the child's performance on any statewide or districtwide assessments, as appropriate

The IEP team must also consider special factors:

- The team must consider the child's communication needs.
- For a child whose behavior interferes with learning, the team must consider strategies to address the behavior, including positive behavior interventions and supports.
- For a child with limited English proficiency, the team must consider the child's language needs.
- For a child who is deaf or hard of hearing, the team must consider the child's language and communication needs, opportunities to communicate with others in the child's language or communication mode, the child's academic level and need for direct instruction in the child's language and communication mode.
- The team must consider the child's needs for assistive technology devices and services.
- For a child who is blind or visually impaired, the IEP team must provide for instruction in Braille and the use of Braille, unless the IEP team determines it is not appropriate for the child.

What must be included in an IEP?

The IEP for each child must include the following:

1. Descriptions of the child's present levels of educational performance and how the child's disability affects involvement in and progress in the general curriculum.
2. Measurable annual goals including benchmarks or short-term objectives (see box below) for
   - meeting the child's needs that result from the disability so the child can participate and make progress in the general curriculum, and
   - meeting each of the child's other educational needs that result from the disability.
3. A statement of the special education and related services and the supplementary aids and services to be provided to the child, and a statement of the program modifications and supports for school personnel.
4. A description of special education and related services and other supports so that the child can advance toward annual goals, progress in the general curriculum, participate in extracurricular and nonacademic activities, and be educated and participate with children who do and do not have disabilities.
5. A statement describing the extent that the child will not participate with children in regular education classes or extracurricular activities.
6. Any modifications or accommodations needed for the child to participate in statewide and districtwide assessments, or a statement of what alternate assessment will be used if the team determines that a child cannot participate in the standard assessments.

Goals are statements that describe what a child is expected to accomplish within an IEP year.

Objectives are the specific measurable steps to achieve the goal.

Benchmarks establish a performance level for the child to achieve during a specified time period.

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Children with disabilities must participate in general statewide and districtwide assessment programs, with appropriate accommodations and modifications. For those who cannot, alternate assessments must be used.

7. The date services and modifications begin, including their frequency, location, and duration.
8. A description of how progress toward annual goals will be measured, how parents will be regularly informed of the child's progress, and whether it is sufficient to meet the goals. Parents must be informed of their child's progress at least as often as parents are informed about the progress of their children who do not have disabilities.
9. For students who are 14 or in ninth grade, the IEP must address the student's transition service needs. (Transition services may be provided earlier if the team decides the child needs them.)
10. At least one year before the student turns 18, the IEP must include a statement that both the parents and the student have been informed that parental rights will transfer from the parents to the student at age 18 unless a legal guardian or conservator has been appointed. Both the parents and the student will continue to receive special education notices after the transfer of rights occurs.

The school must provide an appropriate program even if that means developing or creating new services.

What placement options does my child have?

All students with disabilities must receive special education services in the *least restrictive environment* (LRE). This means that your child must be educated with children who do not have disabilities, to the maximum extent appropriate. Schools must apply this concept when planning services or programs for children with disabilities.

To be sure children with disabilities receive services with the fewest restrictions possible, a variety of settings or placements must be available. The school must provide an appropriate program even if that means developing or creating new services.

Special education and related services for children ages birth to three may be provided in the child's home, child care setting, or other places where infants and toddlers without disabilities are

typically found, such as in Early Childhood Family Education (ECFE) programs. Once the child turns three, services may be provided in the school district's center-based program or community-based programs such as Head Start or ECFE. Services must be available in integrated settings, and children must have opportunities to interact with peers who do not have disabilities, if appropriate.

Special education for school-aged children may be provided in many settings: in the regular education classroom, the resource room, a separate special education classroom, a community setting, a separate school, or in the home or hospital.

How can parents contribute to IEP planning meetings?

You must be invited to the IEP planning meeting, which will be held at a time agreeable to both you and the school staff. This meeting is very important. You, the school staff, and anyone else attending the meeting will review and discuss information about your child to plan the IEP.

Before the meeting

- ❑ Review your child's evaluation data and records. You have the right to request that a qualified staff person explain the results and to have any questions answered before the meeting.
- ❑ Make notes about what information you want to contribute at the meeting, such as your child's strengths or the goals you would like your child to work on.
- ❑ Consider visiting the classroom before the meeting to observe how your child is doing.
- ❑ Involve your child in his or her IEP. Talk with your child about his or her feelings about school. Determine what your child's involvement will be in the IEP process, depending on your child's age and specific circumstances.
- ❑ Take a relative, a friend, another parent, or an advocate to the IEP planning meeting with you. If you feel your child needs an ethnic, cultural, or disability representative on the team, you may bring someone you choose to talk about the child's needs.

- ❑ If transition will be discussed at the IEP meeting, be sure to talk to your child about his or her interests, needs, and skills before attending.

At the meeting

- ❑ Your role is to contribute ideas and information to the planning process. Share your visions for your child, both short-term and long-term. Discuss your child's strengths and needs and your concerns about your child's education. Expect that what you know about your child will be used in making decisions.
- ❑ Be a good listener. Ask questions.
- ❑ Make sure you understand. If you do not understand something, ask to have it explained in a way that you can understand.
- ❑ Use school data, your child's progress reports, and other information you know about your child to make decisions.
- ❑ Take the proposed IEP document home to review or ask that a copy be sent to you. You probably will not want to agree to a proposed IEP at the end of the meeting. You have 10 school days from the time you receive the written IEP to agree or disagree with the program in writing and return it to the school.

After the meeting

- ❑ Carefully read the IEP and be sure that everything the team discussed and agreed to is listed.
- ❑ You must have the opportunity to agree or disagree in writing with the IEP. If this is your child's first IEP, you must give your written consent before the program begins. If this is not the first IEP, the school may start the program if you do not disagree in writing within 10 school days from the time you receive the IEP.
- ❑ If you notify the school in writing that you disagree with the IEP, you will need to ask for a meeting, conciliation, or mediation to try to resolve the differences. Or you may go to a hearing if you do not believe mediation or conciliation will be helpful.

Remember: Developing a good IEP is a team effort!

To evaluate the IEP, ask yourself the following questions:

- Are my child's goals measurable?
- Does my child participate in the general curriculum all or part of the day?
- Does the IEP list the modifications, accommodations, and other supports my child needs to make progress in the general curriculum and toward IEP goals?
- Do the school staff and I agree on the amount of progress my child should make in one year?
- How often will my child's progress be reviewed?
- How often will I be notified of my child's progress and how will I be notified?
- Is the IEP understandable and can it be used by staff as a basis for teaching?
- Will the transition goals and objectives in the IEP help my child reach his or her desired adult outcomes?

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Appeals and safeguards

What can I do when I don't agree with the school?

You have the right to disagree with the school's decisions concerning evaluation, IEPs, or educational placements for your child. Some situations in which parents and school personnel should meet to resolve disagreements include when:

- You refuse consent for an evaluation.
- You disagree in writing with an IEP.
- You believe your child is not receiving appropriate services.
- You think additional services are needed.
- You do not think the educational placement is meeting your child's needs.

When differences arise, try to resolve them informally first. Ask the school for its recommendations in writing, even if you don't agree with them. If you disagree with the school's recommendations, you can use one or more of the following options:

Conciliation conference

Under Minnesota law, the conciliation conference can be used to iron out disagreements over issues such as eligibility, evaluation, placement, or educational services. You may invite anyone you choose (a friend, relative, advocate, or other representative) to attend the conciliation conference with you. Parents and school personnel discuss their views at the conference and try to find solutions. A conciliation conference may not delay or stand in the way of your right to a due process hearing. To request a conciliation conference, send a letter to your principal and your child's special education case manager. *Keep a copy for yourself.* The conciliation conference must be held within 10 calendar days of the principal's receipt of your written request.

Mediation

A mediator works to help find a solution agreeable to both sides.

Mediation is another process to resolve disagreements between parents and school personnel. It is provided at no cost to you or the school district. Both parties must agree to mediation, and it cannot be used to delay a due process hearing. A neutral trained mediator will facilitate the meeting to help both parties resolve their disagreements. The mediator is not a decision-maker; rather, he or she works to help parties find a solution agreeable to both sides.

Mediation is more structured than a conciliation conference but less formal than a due process hearing. Mediation is usually held within 30 days upon receipt of your request, but it is not required to take place within that timeline. Information on mediation is available from:

Minnesota Office of Dispute Resolution
340 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155
(651) 297-4635

Due process hearing

You may request a due process hearing at any time if you are unable to resolve your differences. A due process hearing is more formal than a conciliation conference or mediation, and the parties generally are represented by attorneys. An impartial hearing officer hears

both sides of the dispute and issues a written decision within 45 calendar days of the hearing request. To request a due process hearing, send a letter to your special education director. You may want to clarify your issues with an advocate or attorney before requesting a due process hearing.

You may ask the school district for a list of free or low-cost legal services in your area. The school must tell parents that federal law (IDEA) allows parents to recover attorney's fees if they prevail in special education disputes (hearings and appeals).

If either the school or the parents disagree with the decision of the review officer, they may appeal through the court system.

If either the parents or the school disagrees with the decision of the hearing officer, the decision may be appealed to the commissioner of Children, Families & Learning within 30 calendar days of receiving the written decision. The commissioner then appoints a hearing review officer who reviews the due process hearing records and issues a decision within 30 calendar days. If either the school or the parents disagree with the decision of the review officer, they may appeal through the court system.

State complaint procedure

A complaint is a written allegation that a school district is out of compliance with state or federal law. For example:

- The district is not providing services agreed upon in the IEP.
- A teacher fails to provide accommodations that are part of the IEP.
- A parent is told the school does not provide Extended School Year (ESY) to any child.

Parents should first contact their school administrator with the issue to see if the problem can be fixed before filing a complaint. The complaint process may be used by any individual (parent, teacher, or other person) or by an agency or organization. Complaints should be addressed in writing to:

Division of Accountability and Compliance
Minnesota Department of Children, Families & Learning
1500 Highway 36 West
Roseville, MN 55113-4266
(651) 582-8689
http://cfl.state.mn.us/dmc

A complaint officer will investigate and issue a report to both parties within 60 calendar days of receiving the written complaint.

What other laws offer protection?

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) are federal civil rights acts that prohibit discrimination against individuals with disabilities. Section 504 affects all programs that receive federal funds, including public schools. It covers many students who do not qualify for special education services when they do not meet the eligibility requirements of IDEA.

If your child needs accommodations in school to be successful, he or she may be eligible for these protections. For more information about your child's rights under Section 504 or ADA please contact PACER Center.

The most important laws related to special education include:

- The Individuals with Disabilities Education Act (IDEA)
- Minnesota state law on special education, Minnesota Statute M.S. 125A and Regulations Chapter 3525
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act (ADA)

To obtain copies of the legislation and regulations see the resource list on page 35.

Procedural safeguards notice

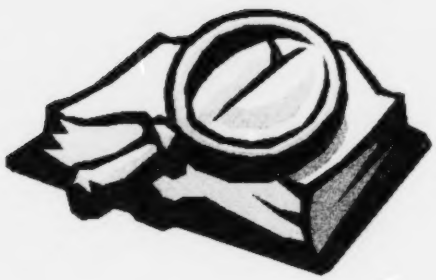
You must be fully informed by the school of all the rights provided to you and your child under the law and the procedures that are in place to safeguard your rights. Schools must give you a copy of the procedural safeguards in the following situations:

- the initial referral for evaluation
- notification of an IEP meeting
- reevaluation
- the district's receipt of a request for a due process hearing

The notice must be in a language you understand and it must explain all the procedural safeguards for:

- independent educational evaluation (IEE)
- prior written notice (This means the school must inform you when it initiates, changes, or refuses your child's identification, evaluation, educational placement, or provision of a free, appropriate public education.) The notice must include:
  - ❑ a description of the action proposed or refused by the school
  - ❑ an explanation of why the school has proposed or refused to take the action
  - ❑ a description of all the other options that were considered and reasons they were rejected
  - ❑ any other factors relevant to the school's proposal or refusal
  - ❑ a statement of parents' rights to protection under procedural safeguards
  - ❑ sources for parents to receive help understanding prior written notice
- parental consent
- access to educational records
- opportunity to present complaints
- the child's placement while awaiting a due process ruling
- procedures for students who are placed in an appropriate interim alternative educational setting
- requirements for unilateral placement by parents in private schools at public expense
- mediation
- due process hearings, including requirements for disclosure of evaluation results and recommendations
- state complaint process and appeals
- civil actions
- attorney's fees

Some commonly asked questions



Q. Can I have changes made to the IEP after I agree to it in writing?

A. Yes. The IEP is a flexible document to be used on an ongoing basis to ensure your child is making progress. If you or another IEP team member sees that the program is not working, schedule an IEP meeting to discuss possible changes. The annual review of the IEP is one opportunity to make changes, but if an issue arises before the annual review date, request an earlier IEP meeting.

Q. Can I have information removed from my child's educational records?

A. Yes. If you believe that any information in your child's records is inaccurate or misleading, contact the principal in writing to ask that the information be removed. If the school refuses, you can ask for a fair hearing to pursue the matter.

This hearing, which is held at the school, is different from due process hearings under special education laws. The procedure is outlined under a federal law referred to as the Family Educational Rights and Privacy Act (FERPA). Further information is available from PACER Center. You may also request that your written disagreement be added to your child's records.

Q. Can the school change my child's program without notifying me?

A. No. Any change such as providing new services, discontinuing a current service, or moving a child to a more restrictive setting can be made only after the school has met with you and offered you the opportunity to accept or disagree with their proposal. The district must give you prior written notice and explain the law. If you disagree with the school's proposal, you must do so in writing.

Q. Can my child's special education records have lifelong implications for my child in finding future employment?

A. Yes and no.

No. The school must inform parents when personally identifiable information is no longer needed to provide educational services for the child. This information must be destroyed at the request of the parents. However, a permanent record of name, address, phone, grades received, attendance, classes attended, grade level completed, and year completed may be maintained without time limitation.

Yes. If the student graduates from high school but has not completed all of the graduation standards, the student will receive a diploma that appears no different than any other graduate's diploma. However, if an employer requests to see the student's Minnesota Graduation Standards Transcript, it will reflect that your child graduated on an individual level.

What are my child's rights and mine as a parent?

- ❑ Your child is entitled to a free, appropriate public education (FAPE) that meets his or her unique educational needs.
- ❑ You may review all of your child's educational records, have them explained by a qualified professional, and obtain copies. Only parents and those directly involved in your child's education have access to your child's educational records.
- ❑ School staff must communicate with you in your primary language. They must ensure that you understand all oral and written communication, including arranging for an interpreter or translator if you are deaf or hard of hearing or if your primary language is not English.
- ❑ Children who are under the guardianship of the Commissioner of Human Services (wards of the state) or whose parents are unknown or unavailable must be represented in the educational process by surrogate parents.
- ❑ Your child has the right to be educated in the least restrictive setting appropriate to his or her needs. An educational program must provide the greatest amount of contact appropriate with children who do not have disabilities.
- ❑ Your child must be evaluated in his or her primary language, and the tests used must not discriminate based on disability or racial or cultural background.
- ❑ You have the right to help make decisions about your child's education and to help develop your child's individualized education program (IEP) or individualized family service plan (IFSP).
- ❑ You may use conciliation, mediation, or a due process hearing to resolve differences that cannot be resolved through the IEP process.
- ❑ You have the right to seek reimbursement of your attorney's fees if you prevail in a special education dispute such as a hearing, appeal, or legal suit.

How to be a good advocate for your child

- ❑ Know your rights.
- ❑ Date and save all notes, report cards, IEPs, and notices from the school regarding your child's education and progress.
- ❑ Make notes on telephone conversations and meetings. Summarize conversations and include the name of the person you spoke to and the date. Request that any decisions be put in writing so you have a copy for your file.
- ❑ Jot down questions you want to ask or information you want to share before you attend meetings.
- ❑ Put all requests in writing and keep copies of all correspondence.
- ❑ Mark important dates on your calendar such as IEP meetings, dates when certain actions should be taken, and reminders to follow up.
- ❑ Ask your child for information, and include the child in meetings whenever possible. Help your child to become a self-advocate.
- ❑ Learn more about your child's disability and services needed.
- ❑ Meet other parents of children with disabilities.
- ❑ If there isn't an active parent group in your area, organize one.
- ❑ Contact people who can be advocates for your child.
- ❑ Know how your child is doing on statewide and districtwide assessments.

Tips for good communication between parents and schools

- ❑ Keep in touch with your child's teachers through frequent telephone calls, notes, or personal visits. Share your ideas about your child with the teachers about what he or she does well or learns best. Ask questions about anything you don't understand.

- ❑ Express your feelings about your child's education. Let staff know when you think they are doing a good job. When things are not going smoothly, try to offer positive solutions.

- ❑ Attend all meetings on your child's education. Take notes and be an active, interested parent.

- ❑ Be a good listener. Encourage the staff to keep you informed about your child's progress, relationships with other children, and any problems or concerns they may have. Listen to their professional opinions about your child. Remember school personnel can also be good advocates for your child!

- ❑ When differences of opinion arise, talk about them. Look for ways to reach a solution, but keep your child's needs uppermost in your mind.

- ❑ Help your child develop a positive attitude toward school.

Resources

Organizations in the PACER Coalition

Arc Minnesota

770 Transfer Rd., #26
St. Paul, MN 55114-1422
Telephone: 651-523-0823
Toll-free: 800-582-5256
Fax: 651-523-0829
E-mail: arcminn*@*mtn.org
Web: *www.mtn.org/arcminn*
(Support and advocacy for persons with developmental disabilities and their families).

Brain Injury Association of Minnesota

43 Main St. SE, #135
Minneapolis, MN 55414
Telephone: 612-378-2742 (V-TTY)
Toll-free (MN): 800-669-6442
Fax: 612-378-2789
E-mail: info*@*braininjurymn.org
Web: *www.braininjurymn.org*

Down Syndrome Association of Minnesota
668 Transfer Road
St. Paul, MN 55114-6105
Telephone: 651-603-0720
Toll-free: 800-511-3696
E-mail: dsam@mm.com
Web: *www.mm.com/dsam/*

Epilepsy Foundation of Minnesota
2356 University Ave. W. #405
St. Paul, MN 55114
Telephone: 651-646-8675
Toll-free (nat'l): 800-779-0777
Fax: 651-646-1887
E-mail: info@mrnet.com

Family Service, Inc.
(formerly LDM Learning Disabilities of MN)
166 4th St. E., #200
St. Paul, MN 55101
Telephone: 651-222-0311(V) or 651-222-0175 (TTY)
Toll-free (MN): 800-488-4395
Toll-free (nat'l): 800-487-5310
Fax: 651-222-8920
E-mail: ldmldm@primenet.org
Web: *www.familyinc.org*

MAHI
P.O. Box 480046
Coon Rapids, MN 55448
Telephone: 763-755-3790 (V-TTY)
E-mail: Debbiepe@juno.com
(A metro association supporting children who are deaf or hard of hearing and their families)

MINCEP Epilepsy Care P.A.
(Minnesota Comprehensive Epilepsy Program)
5775 Wayzata Blvd., #255
Minneapolis, MN 55416
Telephone: 952-525-2400
FAX: 952-525-1560.

Minnesota Association for Children's Mental Health
1821 University Ave W., #N184
St. Paul, MN 55104
Telephone: 651-644-7333
Toll-free (MN): 800-528-4511
Fax: 651-644-7391
E-Mail dsaxhaug@macmh.org
Web: *www.macmh.org*

Minnesota Speech-Language-Hearing Association
P.O. Box 26115
St. Louis Park, MN 55426
Telephone: 952-920-0787
Toll-free (five-state area): 800-344-8808
Fax: 952-920-6098

Minnesota State Council on Disability
(651) 296-6785
(800) 945-8913

Minnesota Tourette Syndrome Association
7317 Cahill Rd. #231
Edina, MN 55439
Telephone: 952-918-0350

Muscular Dystrophy Association
4530 W. 77th St., Room 164
Minneapolis, MN 55435
Telephone: 952-832-5517
Fax: 952-893-9769

NAMI-MN
(National Alliance for the Mentally Ill-MN)
970 Raymond Ave., #105
St. Paul, MN 55114-1146
Telephone: 651-645-2948
Fax: 651-645-7379
Web: *www.nami.org*

National Federation of the Blind of Minnesota, Inc.
100 E. 22nd St.
Minneapolis, MN 55404
Telephone: 612-872-9363
Toll-free: 800-597-9558
Fax: 612-872-9358
E-mail: jscanlan@blindinc.org
Web: *www.blindinc.org*

Spina Bifida Association of Minnesota
P.O. Box 29323
Brooklyn Center, MN 55429
Telephone: 651-222-6395
Toll-free: 800-621-314

Twin Cities Autism Society
970 Raymond Ave., #101
St. Paul, MN 55114
Telephone: 651-647-1083
Fax: 651-642-1230
E-mail: mpowell@goldengate.net

United Cerebral Palsy of Minnesota, Inc.
1821 University Ave., #286S
St. Paul, MN 55104-3094
Telephone: 651-646-7588
Toll-free (MN): 800-328-4827
Fax: 651-646-3045, Ext. 1437
E-mail: ucpmn@mninc.net

Links to Special Education Legislation

The Individuals with Disabilities Education Act

www.fape.org

Section 504 of the Rehabilitation Act of 1973

www.access.gpo.gov/nara/cfr/waisdx_99/34cfr104_99.html

The Americans with Disabilities Act (ADA)

www.adagreatlakes.org

Minnesota state law on special education, Minnesota Statutes M.S. 125A and Regulations Chapter 3525

www.revisor.leg.state.mn.us/stats/125A
www.revisor.leg.state.mn.us/arule/3525

Minnesota Department of Children, Families & Learning, special education policies

http://cfl.state.mn.us/speced/policies.html

Contact PACER Center's advocates for fact sheets and specific questions about these important laws, or visit the Web site:
www.pacer.org

About PACER Center

PACER Center (Parent Advocacy Coalition for Educational Rights) is an information, training, and advocacy center for families throughout Minnesota who have children and young adults with disabilities. PACER's mission is to improve and expand opportunities that enhance the quality of life for children and young adults with disabilities and their families. For more information, call PACER at (952) 838-9000 voice, (952) 838-0190 TTY. Families in greater Minnesota may call toll-free 1-800-53 PACER. Check out PACER Center's Web site at *www.pacer.org*.

PACER provides a variety of programs to assist families of children and young adults with disabilities:

Parents Helping Parents

Workshops, one-on-one training, and information on special education, communication skills, and other issues affecting children with disabilities.their children the right to a free, appropriate public education.

Early Childhood Intervention

Informs families about early intervention services for infants, toddlers, and preschoolers with disabilities.

Emotional and Behavioral Disorders (EBD) Services

Provides parents and professionals with workshops, written information, and individual assistance on mental health, education, social services, and corrections issues.

Count Me In

Performs puppet shows for preschool and elementary-aged children to foster positive attitudes and acceptance of children with disabilities in their schools and communities.

Let's Prevent Abuse

Informs children, parents, and professionals about emotional, physical, and sexual abuse and strategies for prevention, including puppet presentations about child abuse to school-aged children.

Family Strengths

Assists young families and professionals in identifying family strengths and celebrating diversity. The program has developed cultural adaptations with Hmong and Spanish-speaking communities. Program includes puppet shows.

Multicultural Project

Provides bilingual workshops and written information addressing language and cultural issues faced by culturally and racially diverse parents of children with disabilities.

American Indian Parent Network

Provides individual assistance and information for American Indian parents of children who have or are at risk for developing emotional or behavioral disorders.

Project Youth

Planning and support services for teens making the transition from school to work and independent living.

Project PRIDE (PACER's Rehabilitation Act Information & Disability Education)

Informs and trains youth with disabilities, their families, and professionals about the Rehabilitation Act.

Juvenile Justice

Trains professionals to identify the needs of youths whose disabilities may place them at risk for involvement with the juvenile justice system.

Computer Resource Center

Introduces children with special needs, parents, and teachers to educational software and special equipment to make computers accessible tools for communication and learning. It includes a software lending library.

Project KITE (Kids Included through Technology are Enriched)

Teaches parents and early childhood educational staff to use software and other technology to enable children with disabilities to interact with their peers.

Grandparents Program

Information and support services for grandparents of children with disabilities. PACER is the National Center for Grandparent Support.

Surrogate Parent Services

Training and suggestions for selection of surrogate parents to represent children with disabilities in the special education process.

Employment

Helps individuals with disabilities and their families access employment and co-worker job support.

Health Information and Advocacy Center

Provides one-on-one advocacy and workshops on how to work effectively within the health care system (including working with physicians, homecare, hospitals, and insurance).

TATRA (Technical Assistance on Training about the Rehabilitation Act)

PACER serves as the national center to provide education assistance for parent centers training individuals with disabilities and their families about the services and rights available under the Rehabilitation Act.

The Alliance (Technical Assistance Alliance for Parent Centers)

PACER is the national coordinating office for consultation and technical assistance for 100 federally funded parent centers across the country under the Individuals with Disabilities Education Act (IDEA).

FAPE (The Families and Advocates Partnership for Education)

PACER serves as the national coordinating office for a federally funded partnership linking families and advocates with researchers and policymakers. Its focus is the implementation of the IDEA '97 Amendments.

Minnesota Parent Center

Provides individual assistance, workshops, and information for families and professionals encouraging involvement in the education of all children.

www.pacer.org

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